



November 16th, 2023

Dear, Dear Dr. Alice Jill Edwards, Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Re: Call for input current issues and good practice in prison management

I am writing to you today in my capacity as Executive Vice-President of Inclusion Canada, a civil society organization representative of persons with intellectual disabilities and their families.

I wish to bring to your attention an issue which is of grave concern to Inclusion Canada's membership and to Canada's disability rights community more broadly, and which, I anticipate, will be of relevance to your study of prison management: the availability of state-authorized doctor-assisted suicide on the basis of disability and soon mental illness, including in Canadian prisons.

Canada first legalized medical assistance in dying (MAiD) in 2016. Following consultation with civil society, and informed by the UN Convention on the Rights of Persons with Disabilities, Canada made assisted death available to persons with a grievous and irremediable illness, disease, or disability for whom "natural death" was "reasonably foreseeable."

For a time, this end of life requirement served to uphold equality rights in that it limited the extent to which a person's disability status could determine their eligibility for assisted death. This is particularly important given that Canada's MAiD law provides an exemption to legislative provisions that guarantee protection from homicide, and given that there exists a general ableist sentiment in Canada that life with a disability is a life worse than death.

In 2021, at the height of the COVID-19 pandemic, Canada introduced a second "track" of MAiD eligibility. This second track now renders persons with a grievous and irremediable illness, disease, or disability for whom "natural death" is not "reasonably foreseeable" eligible for assisted suicide. Before the law was passed, three UN experts warned discriminatory implications: the Special Rapporteur on the Rights of Persons with Disabilities, the Special Rapporteur on Extreme Poverty and Human Rights, and the Independent Expert on the Enjoyment of Human Rights by Older Persons.

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People with disabilities are now dying by MAiD due to suffering associated with poverty, inadequate housing, unmanaged pain, insufficient access to homecare and other disability supports, and to avoid institutionalization. It is within this context that we raise concern with the provision of MAiD in prisons.

To this point, at least 27 prisoners have requested to die by MAiD. About one third of these requests have been approved. Reporting on MAiD in prisons is insufficient, however research does indicate that justice-involved persons have died while handcuffed to a bed, and that they have been assessed for and provided MAiD under surveillance from correctional officers.

Canada will soon (March 17th of 2024) legalize medical assistance in dying for persons whose sole underlying medical condition is a mental illness. Rates of mental illness and suicidality are much higher among justice-involved people in Canada, and incarceration is known to exacerbate risk of both mental illness and suicidal ideation. In preparation for MAiD on the sole basis of mental illness, a government-appointed committee (from which a consumer-survivor resigned) has recommended that assisted suicide be made available to persons in sustained "situations of involuntariness" such as detention in prisons or psychiatric facilities.

I would be pleased to engage with you further on this issue, and to make additional source materials available to you should you wish to write about MAiD in prisons in your thematic report. Thank you for considering our communities' concerns.

Sincerely,

A handwritten signature in blue ink that reads "Krista Carr".

Krista Carr

Executive Vice-President
Inclusion Canada